



**Office of the Attorney General  
State of Texas**

**DAN MORALES**  
ATTORNEY GENERAL

July 27, 1992

Mr. Glen Hartman  
Executive Director  
Texas Public Finance Authority  
P. O. Box 12906  
Austin, Texas 78711-2047

Letter Opinion No. 92-27

Re: Constitutionality of Senate Bill 3, Acts  
1991, 72d Legislature, 1st Called Session,  
chapter 4, sections 14.07 and 14.09, at 98,  
118-19, regarding issuance of park develop-  
ment bonds (ID# 16633)

Mr. Andrew Sansom  
Executive Director  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744

Gentlemen:

You have requested our opinion regarding a particular portion of Senate Bill 3, Acts 1991, 72d Leg., 1st C.S., ch. 4, at 98, *et seq.* Sections 14.07 and 14.09 of that bill amend section 9B of article 601d, V.T.C.S., and section 21.001, Parks and Wildlife Code, to empower the Texas Public Finance Authority to act as issuer of "park development" bonds which the Texas Constitution authorizes the Parks and Wildlife Department to issue. In a public meeting held on March 26, 1992, the Parks and Wildlife Commission approved the issuance of "bonds in order to advance refund the 20,300,000-dollar callable portion of the state's Series 1985 General Obligation Park Development Bonds and the issuance of up to \$10,000,000 in new Texas Park Development Bonds for park acquisition and development." The commission also authorized the department's executive director to work with the Texas Public Finance Authority to "proceed with all necessary steps" in the issuance of these bonds. The motion adopted by the commission is in full accord with the procedures outlined in Senate Bill 3, *i.e.*, the commission approves the bond issuance and the Finance Authority then acts as issuer.

The Commission's authority to issue bonds derives from article III, section 49-e, of the Texas Constitution, which provides, in pertinent part:

*The Parks and Wildlife Department, or its successor vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount not to exceed Seventy-five Million Dollars (\$75,000,000).*

Tex. Const. art. III, § 49-e (emphasis added). The constitutional question you pose arises from the substitution in Senate Bill 3 of the Public Finance Authority for the Parks and Wildlife Department as "issuer and seller" of the bonds.

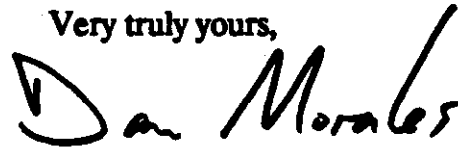
The Texas Constitution empowers the Parks and Wildlife Department to "provide for, issue and sell" bonds. The commission, acting on behalf of the department, has "provided for" the bonds in question by authorizing their issuance. The "issuing" and "selling" of the bonds has been assigned to the Public Finance Authority as the "successor" agency of the department for particular limited purposes. A "successor" of the Parks and Wildlife Department is contemplated by the constitution, so long as such successor is "vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks." For the *limited purposes* specified in Senate Bill 3, all of which purposes "deal with the operation, maintenance, and improvement of State Parks," the Public Finance Authority has been designated, not by the department itself, but by the *legislature*, as the *successor* to the department. Nothing in the constitutional provision indicates that a successor agency could not be empowered to act only for certain narrow purposes, or that a limited-purpose successor could not co-exist with the department.

Such a reading of article III, section 49-e is not unreasonable, and it is the one which conforms most closely to the intent of the legislature in enacting Senate Bill 3. Accordingly, it is our opinion that the questioned provisions of Senate Bill 3 are constitutional, and that they authorize the Texas Public Finance Authority to act as the issuer and seller of bonds "provided for" by the Texas Parks and Wildlife Department.

**S U M M A R Y**

Sections 14.07 and 14.09 of Senate Bill 3, Acts 1991, 72d Leg., 1st C.S., ch. 4, at 118-19, are constitutional, and together they authorize the Texas Public Finance Authority to act as the issuer and seller of bonds which have been "provided for" by the Texas Parks and Wildlife Department.

Very truly yours,

A handwritten signature in black ink that reads "Dan Morales". The signature is written in a cursive style with a large, stylized "D" and "M".

DAN MORALES  
Attorney General of Texas